

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

January 12, 2007

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

01od-314

Oahu

Amendment to Prior Board Action of September 28, 2001, Agenda Item D-17, Grant of Perpetual, Non-Exclusive Easement to R.R. Midkiff Luakaha Family Limited Partnership and Elizabeth Midkiff Myers, Trustee Under that Certain Unrecorded Revocable Trust of Elizabeth Midkiff Myers, dated April 24, 1989, as Amended for Waterline, Reservoir and Fire Pump Station Purposes at Nuuanu, Oahu, TMK: 1st/ 1-9-07:02 por. (serving TMK: 1st/ 2-2-55:12).

REMARKS:

On September 28, 2001, agenda item D-17, the Board approved the grant of perpetual, non-exclusive easement for waterline, reservoir and fire pump station purposes to R.R. Midkiff Luakaha Family Limited Partnership and Elizabeth Midkiff Myers, Trustee under that certain unrecorded Revocable Trust of Elizabeth Midkiff Myers dated April 24, 1989, as amended, as property owners of the adjacent subdivision (see Exhibit A). Elizabeth Midkiff Myers recently formed a new entity, EMM Family Limited Partnership. A third entity was also formed, Luakaha Family Limited Partnership. The applicant now requests that the easements be issued to the new ownership entities.

The fire protection system requires electric power and telephone lines that will connect to the existing utility lines. This was not included in the prior Board submittal. The applicants' revised survey map now shows the utility extensions from Easement B-1 to join the existing utility lines (see Exhibit C). Staff recommends the Board amend its prior action of September 28, 2001, by amending to include electrical and telecommunication purposes, which will accommodate the present situation.

RECOMMENDATION:

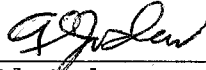
That the Board amend its prior action of September 28, 2001, agenda item D-17, by amending item 2, line 6 to the following:

1. "...covering the subject area for waterline, reservoir and fire pump station plus electrical and telecommunication purposes; and
2. Authorize the subject requests to be applicable in the

January 12, 2007

event of a change in the ownership.

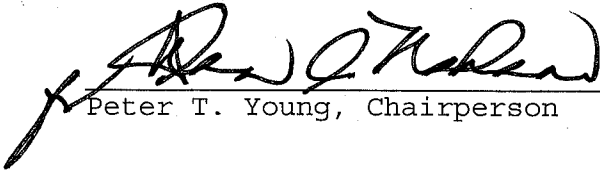
Respectfully Submitted,



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Al Jodar  
Land Agent

APPROVED FOR SUBMITTAL:



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Peter T. Young, Chairperson

D-17

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

September 28, 2001

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

OAHU

Grant of Perpetual, Non-Exclusive Easement to R.R. Midkiff  
Luakaha Family Limited Partnership and Elizabeth Midkiff  
Myers, Trustee Under That Certain Unrecorded Revocable Trust  
of Elizabeth Midkiff Myers dated April 24, 1989, as Amended  
for Waterline, Reservoir and Fire Pump Station Purposes,  
Nuuanu, Oahu, Tax Map Key: (1) 1-9-7:portion 2

APPLICANT:

R.R. Midkiff Luakaha Family Limited Partnership, a Hawaii limited  
partnership, whose address is 4477 Kahala Avenue, Honolulu,  
Hawaii 96816, success-in-interest to American Trust Co. of  
Hawaii, Inc. a Hawaii corporation; and

Elizabeth Midkiff Myers, also known as Frances Elizabeth Morris,  
Elizabeth Midkiff Morris, Frances Elizabeth Midkiff Morris, and  
Frances Elizabeth Midkiff Myers, unmarried, Trustee under that  
certain unrecorded Revocable Trust of Elizabeth Midkiff Myers  
dated April 24, 1989, as amended, whose residence and mailing  
address is 4151A Nuuanu Pali Drive, Honolulu, Hawaii 96817.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government Land of Luakaha situated at Nuuanu Valley,  
Honolulu, Oahu, identified by Tax Map Key: (1) 1-9-7:portion 2,  
as shown on the attached map labeled Exhibit A.

AREA:

2,820 square feet, more or less.

APPROVED BY THE  
LAND AND NATURAL  
AT ITS MEETING

September 28, 2001. *[Signature]*

**EXHIBIT "A"** ITEM D-17

ZONING:

State Land Use District: Conservation  
City and County of Honolulu CZO:

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_ NO \_\_\_\_x

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 1084 issued to the  
Board of Commissioners of Agriculture and Forestry on October 30,  
1944 for addition to the Honolulu Watershed Forest Reserve -  
Kuleanas in Kamaikai Valley.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain,  
repair, replace and remove waterline, reservoir and fire pump  
station over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff  
appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

By letter dated October 24, 2000, the Department determined a  
conservation district use application was not required.  
Referring to existing CDUA #OA-2573 and OA-2851. (See Exhibit B)

DCCA VERIFICATION:

Place of business registration confirmed:	YES ____	NO
Registered business name confirmed:	YES ____	NO
Applicant in good standing confirmed:	YES ____	NO

Not applicable, individuals

**A**

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Applicants through their consultants, Belt Collins Hawaii Ltd. ~~is one~~ in the process of subdividing their fee simple property located at tax map key: (1) 2-2-55:4. The proposed subdivision requires the installation of a waterline, reservoir and fire pump station located across Nuuanu Pali Drive on the State property. This is to provide fire protection to the Applicants proposed gated subdivision. There is no fire protection system in the area at the moment since the elevation is above the City's Board of Water Supply (BWS) service zone. Under the City and County of Honolulu subdivision ordinance, a fire protection system meeting BWS requirements must be installed. BWS suggested using the Nuuanu Reservoir and Belt Collins Hawaii Ltd. designed the system accordingly, based on BWS and National Fire Protection Association standards.

Starting in 1927 the Territory of Hawaii starting acquiring various kuleanas located within the Honolulu Watershed Forest Reserve. The last kuleana was acquired in 1939. The successor agency, the Department of Land and Natural Resources, Division of Forestry and Wildlife has been managing the subject lands.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Division of Forestry and Wildlife reviewed Applicants proposed easement plans and requested a provision be placed in the easement document to provide protection of the wildlife in the proposed easement area. Specifically: a) the Applicant shall use measures to prevent and if necessary mitigate harm to any wildlife during the construction phase, b) perform regular maintenance of the easement area and c) provide means for fire protection of the Board of Water Supply's aerator facility and the surrounding environment. Applicants have no objections to the provision.


There are no other agency or community comments. There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Find that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to R.R. Midkiff Luakaha Family Limited Partnership and Elizabeth Midkiff Myers, Trustee under that certain unrecorded Revocable Trust of Elizabeth Midkiff Myers dated April 24, 1989, as amended covering the subject area for waterline, reservoir and fire pump station purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
  - D. Compliance with terms and conditions of CDUA #OA-2573 and CDUA #OA-2851.
  - E. Prevent and mitigate harm to any wildlife during the construction phase. Perform regular maintenance. Provide means for fire protection of the Board of Water Supply's aerator facility and the surrounding environment.

Respectfully Submitted,



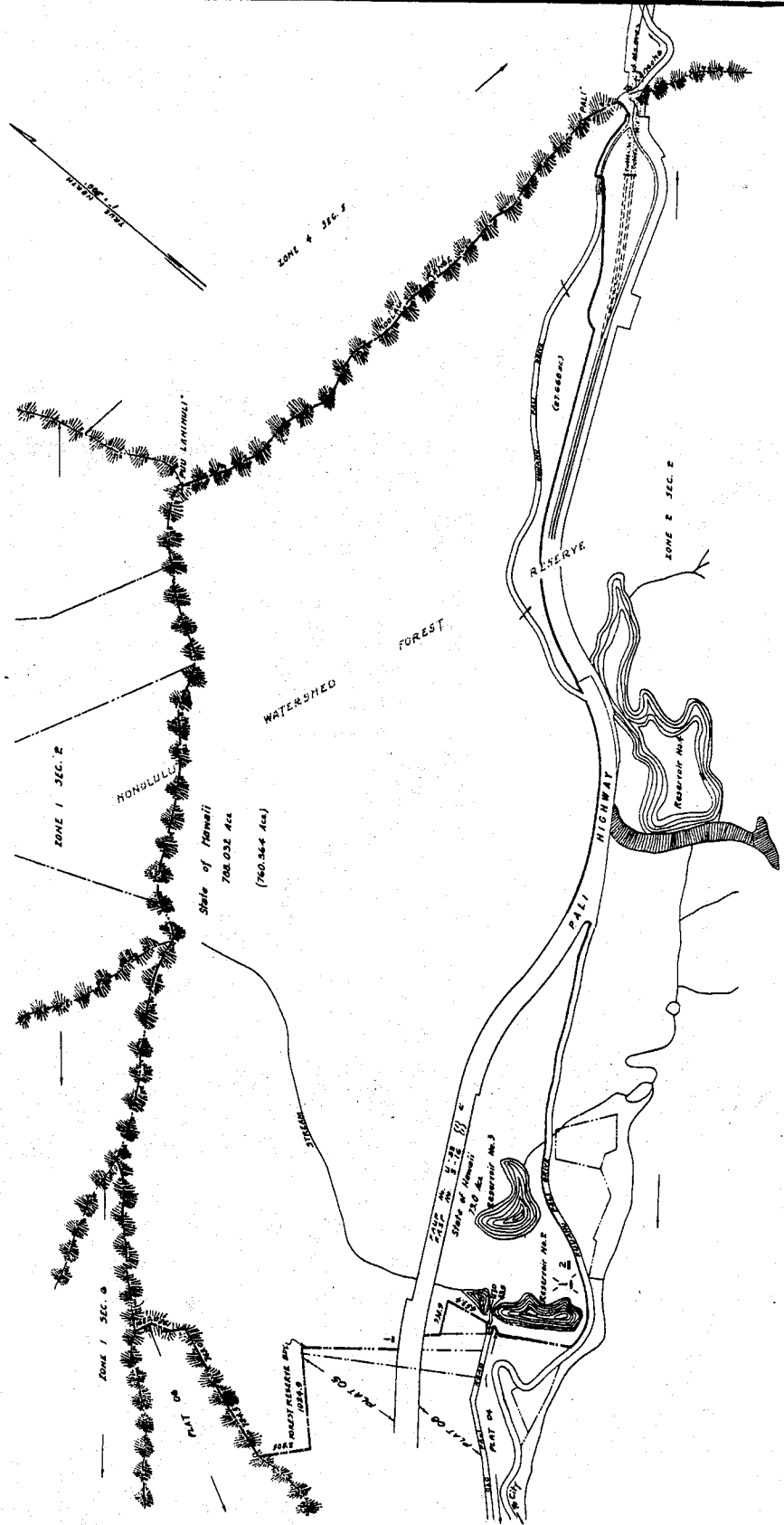
Charlene E. Unoki  
 Supervising land agent

APPROVED FOR SUBMITTAL:

  
GILBERT S. COLOMA-AGARAN, Chairperson

# EXHIBIT A

1 9 07



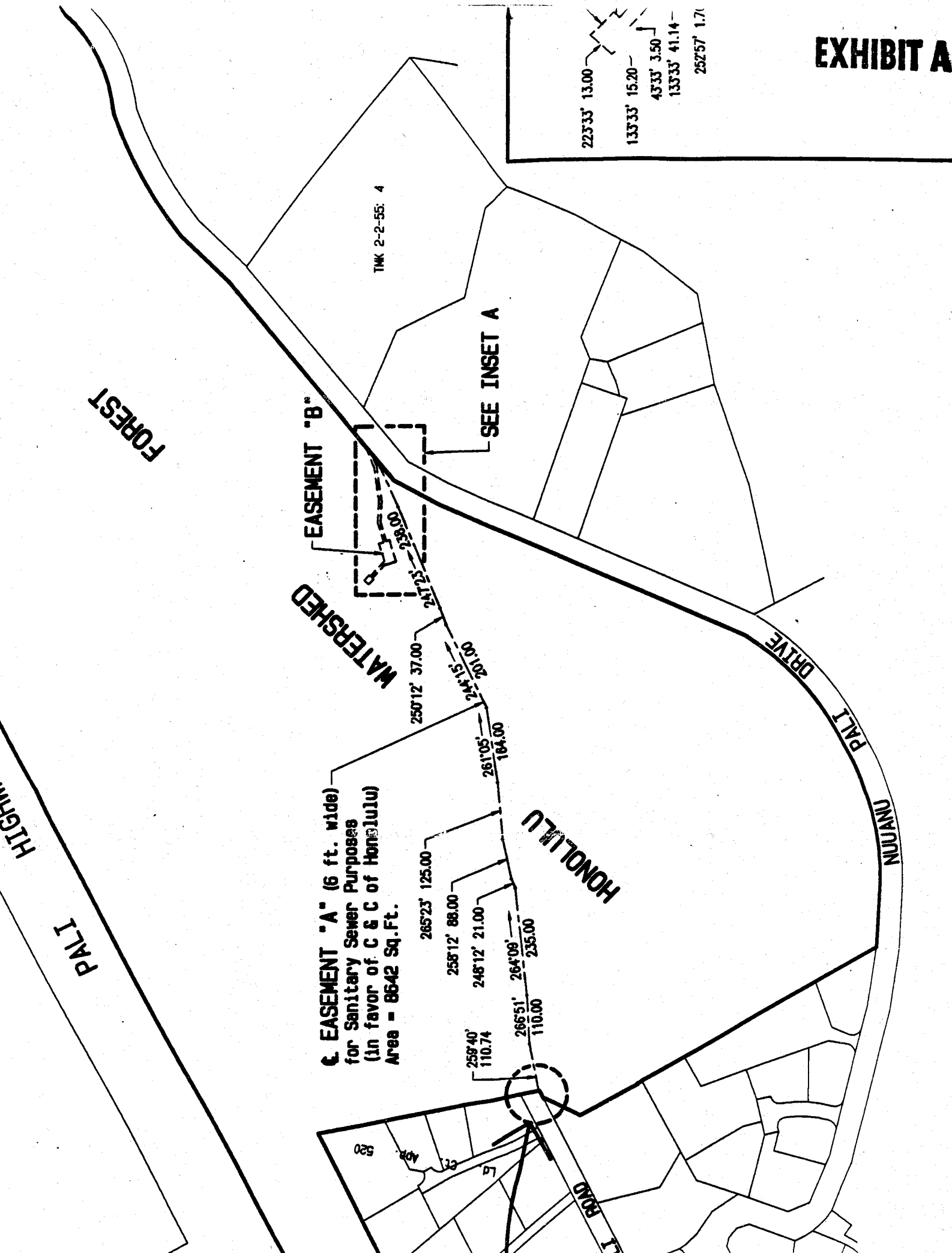
FIRST	DIVISION
1	9 07
ZONE	SEC
1	9 07
CONTAINING	PARCELS
SCALE: 1 in = 100 ft.	

ADVANCE SHEET  
SUBJECT TO CHANGE

NUUANU HONOLULU

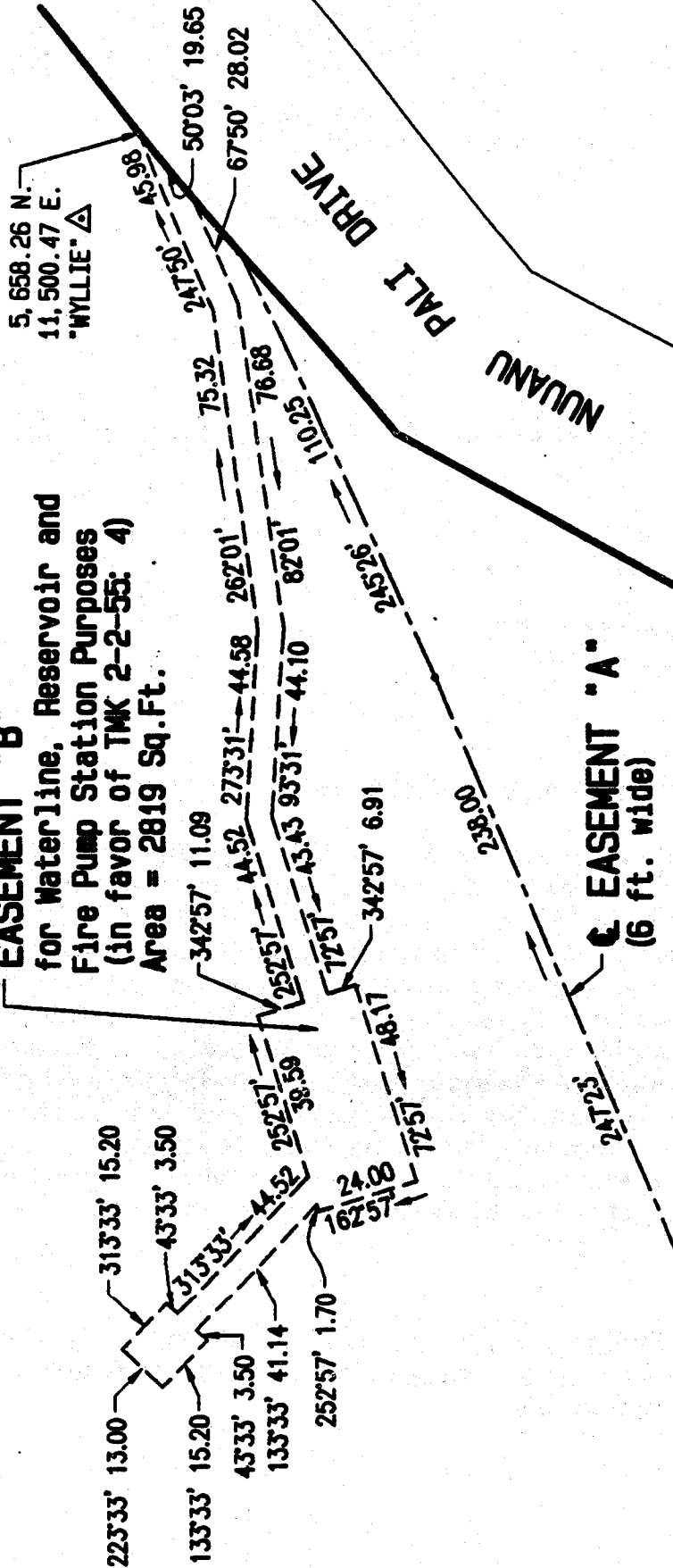
Dwg No. 1283  
By: G.B. Mar. 1935  
Source: Survey, Department of Public Works  
Date: 11/11/34  
Scale: 1 in = 100 ft.

225°33' 13.00-  
135°33' 15.20-  
45°33' 3.50  
135°33' 41.14-  
252°57' 1.70



# **EASEMENT "B"**

for Waterline, Reservoir and  
Fire Pump Station Purposes  
(in favor of TMK 2-2-55: 4)  
Area = 2819 Sq.Ft.



## **INSET A**

Scale: 1 in. = 40 ft.

**EXHIBIT A**



2000 OCT 25 P 2:09

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES****LAND DIVISION  
P.O. BOX 621  
HONOLULU, HAWAII 96809****AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND DIVISION  
STATE PARKS  
WATER RESOURCE MANAGEMENT**

Ref.: PB: SL

OCT 24 2000

Ms. Cheryle M. Palesh  
Vice President  
Belt Collins  
680 Ala Moana Boulevard, First Floor  
Honolulu, Hawaii 96813-5406

Dear Ms. Palesh:

Subject: Proposed Utility Lines at Nuuanu, Oahu

We are in receipt of your October 3, 2000 letter regarding the subject improvements. Based on further review of this matter, we have determined that the subject improvements may be approved in accordance with Section 13-5-23 (L-7) of the Administrative Rules. As noted in your correspondence, the proposed water line and pump station are relatively small structures associated with potential emergency use of the reservoir water. These structures may, therefore, be considered accessory to the reservoir. The potable water line and sewer line are short segments and are minor extensions of the existing water and sewer systems that run within existing roadways and may, therefore, be considered accessory to existing facilities in the area, some of which were improved under existing Conservation District Use Applications (OA-2573 & OA-2851). In addition, you note that these improvements will be dedicated to the appropriate public agencies as part of the subdivision approval process.

**ANALYSIS:**

Section 13-5-23, Structures, Accessory, specifically allows, "Construction or placement of structures accessory to an existing structure, building or facility under an existing conservation district use permit."

## EXHIBIT B

In addition, the proposed project is minor in scope and may be considered an exemption under State environmental laws under Section 11-200-8(3)d, Hawaii Administrative Rules (HAR).

Therefore, authorization is hereby granted for the proposed work at Nuuanu, Oahu (TMKs 1-9-07:02; 2-2-55:02 & 4) subject to the following conditions:


1. The applicant shall comply with all ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of Chapter 13-5, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this approval or relating to or connected with the granting of this approval;
3. The applicant shall comply with all applicable Department of Health administrative rules;
4. The applicant shall obtain the approval from the landowners prior to installation of any facilities;
5. In issuing the approval, the department and board have relied on the information and data, which the applicant has provided in connection with the application. If, subsequent to the issuance of the approval such information and data prove to be false, incomplete, or inaccurate, this approval may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
6. The applicant shall remit a check for \$50.00 to the Department of Land and Natural Resources to cover the Site Plan Processing Fee prior to release of site plans;
7. The applicant shall comply with all other conditions imposed under CDUAs OA-2573 & OA-2851;
8. Failure to comply with any of these conditions shall render this approval null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days.

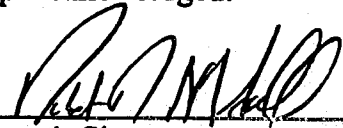
# EXHIBIT B

Should you have any questions on any of these conditions, please feel free to contact Sam Lemmo of our Planning Branch at 587-0381.

Aloha,

  
Dean Y. Uchida, Administrator  
Land Division

Receipt acknowledged:

  
Applicant's Signature


Date Nov 2, 2000

bcc: Chairperson's Office  
Oahu Board Member  
Oahu Land Agent  
BWS  
Department of Facilities Maintenance

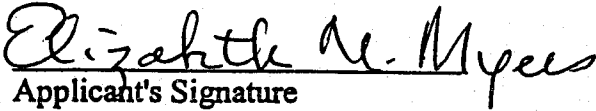
# EXHIBIT B

Should you have any questions on any of these conditions, please feel free to contact Sam Lemmo of our Planning Branch at 587-0381.

Aloha,

  
Dean Y. Uchida, Administrator  
Land Division

Receipt acknowledged:

  
Applicant's Signature

Date Nov. 3, 2000

bcc: Chairperson's Office  
Oahu Board Member  
Oahu Land Agent  
BWS  
Department of Facilities Maintenance

